



Western Australia

Public Trustee Act 1941

## **Public Trustee Regulations 1942**



## Public Trustee Regulations 1942

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### Defined terms



## Public Trustee Regulations 1942

### 1. Citation and interpretation

- (1) These regulations may be cited as the *Public Trustee Regulations 1942*<sup>1</sup>.
- (2) In these regulations unless the contrary intention appears — *estate* includes trusts, estates and property which the Public Trustee as trustee, executor, administrator, guardian, next friend, committee, manager, receiver, attorney or otherwise is entitled under the Act to control, manage, administer or deal with.

*[Regulation 1 inserted: Gazette 28 Sep 1984 p. 3158.]*

### 2. Public Trust Office

The Public Trust Office shall be situate in the city of Perth. Any premises which the Public Trustee from time to time occupies for the purpose of carrying on the business of the Public Trust Office shall be the Public Trust Office for the purpose of the Act and these regulations.

*[Regulation 2 amended: Gazette 19 May 1944 p. 388.]*

### 3. Common seal

- (i) The common seal of the Public Trustee shall bear the words “The Common Seal of the Public Trustee, Western Australia”.
- (ii) The common seal shall be kept in the custody of the Public Trustee, or such other officer as is authorised by him.

**4. Form of claim**

Every claim upon the Public Trustee shall be made in the form required by the Public Trustee.

**5. Forms**

The several forms in the First Schedule shall be used for the purposes to which they are respectively applicable, with such variations as may be required.

*[Regulation 5 amended: Gazette 30 Jun 1972 p. 2169.]*

**6. Matters to be dealt with in written agreement**

For the purposes of section 6B(1) of the Act, the following matters are prescribed —

- (a) the determination of a scale of fees under section 38A(1) of the Act;
- (b) the proportion of fees received by the Public Trustee to be credited to the Consolidated Account;
- (c) the establishment of reserve funds;
- (d) the moneys to be credited to reserve funds;
- (e) the circumstances in which moneys may be transferred to or from a reserve fund;
- (f) the uses to which moneys in a reserve fund may be put;
- (g) the fixing of the rate or rates of Common Account interest;
- (h) the establishment and operation of strategic common accounts.

*[Regulation 6 inserted: Gazette 24 Jun 2008 p. 2888-9.]*

*[6AA, 6A and 7. Deleted: Gazette 24 Jun 2008 p. 2888.]*

*[8. Deleted: Gazette 12 Dec 1947 p. 2255.]*

*[9. Deleted: Gazette 1 May 1969 p. 1347.]*

**10. Public Trustee next friend of represented person**

Where the Public Trustee is the administrator or joint administrator of the estate of a represented person any proceeding by the Public Trustee with respect to any property of the represented person or any property in which he is interested or for the recovery of damages for conversion of or injury to that property shall be taken in the name of the represented person by the Public Trustee as his next friend.

*[Regulation 10 inserted: Gazette 20 Jul 1993 p. 3963.]*

**10A. Prescribed amount — s. 45(2)**

The prescribed amount referred to in section 45(2) of the Act is \$1 500.

*[Regulation 10A inserted: Gazette 5 Sep 1986 p. 3272; amended: Gazette 6 Sep 1991 p. 4714; 24 Jun 2008 p. 2889.]*

**11. Procedure**

In case of doubt as to the mode of procedure to be adopted by the Public Trustee in any particular case, the procedure to be adopted shall be such as the Court directs.

**First Schedule**

(Reg. 5)

*[Heading inserted: Gazette 30 Jun 1972 p. 2169.]*

**Form No. 1**

**NOTICE TO CREDITORS AND CLAIMANTS**

In the Supreme Court of Western Australia — Probate Jurisdiction.

NOTICE is hereby given that all persons having claims or demands against the estates of the undermentioned deceased persons (orders to administer whose estates were granted to me by the said Court under the *Public Trustee Act 1941*) are hereby required to send particulars of such claims to me in writing on or before the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, after which date I will proceed to distribute the assets of the said deceased persons among those entitled thereto, having regard only to those claims of which I shall then have had notice.

Dated at Perth the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

J. H. GLYNN,  
Public Trustee.

Name.	Date of Death.	Date of Order.	Address.	Occupation.



**Form No. 2**

Public Trust Office,  
Perth, ..... 20 .....

The Manager,

.....  
.....

*re*..... deceased.

PLEASE have the notice to creditors and claimants as shown hereunder inserted once in your next issue and forward to this office the account, with a copy of the paper in which the advertisement appears.

J. H. GLYNN,  
Public Trustee,  
Perth.

NOTICE TO CREDITORS AND CLAIMANTS

*Re*.....

late of ..... deceased.

ALL persons having claims or demands against the estate of the abovenamed are required to send particulars thereof in writing to the undersigned before the ..... day of ..... 20....., otherwise they will be excluded from participating in the distribution of the assets.

Dated this ..... day of ..... 20.....

J. H. GLYNN,  
Public Trustee.

**Form No. 3**

(Section 14(1))

**ELECTION BY PUBLIC TRUSTEE TO ADMINISTER AN  
INTESTATE ESTATE**

In the Supreme Court of Western Australia — Probate Jurisdiction.

In the matter of the Estate of .....  
.....  
.....  
.....  
..... deceased, intestate.

WHEREAS the abovenamed deceased died at ..... on  
the ..... day of ..... 20....., intestate, leaving  
estate within the State of Western Australia the gross value of which as  
estimated by the Public Trustee does not now exceed the prescribed amount  
within the meaning given in section 14(6) of the *Public Trustee Act 1941*, and  
no person has taken out administration of the said estate:

AND WHEREAS the Public Trustee is entitled to an Order to administer such  
estate:

NOW this is to notify all whom it may concern that in pursuance of  
section 14(1) of the *Public Trustee Act 1941*, the Public Trustee hereby elects to  
administer such estate.

So far as now known to the Public Trustee the name, address, and  
occupation of the said deceased at the date of his death are as set out above and  
the total value of the estate is under \$ ..... of which \$ .....  
is real estate and \$ ..... personal estate.

Dated this ..... day of ..... 20.....

Public Trustee.

*[Form No. 3 amended: Gazette 18 Aug 1978 p. 3063; 24 Jun 2008  
p. 2889.]*

**Form No. 3A**

(Section 14(1))

ELECTION BY THE PUBLIC TRUSTEE TO  
ADMINISTER A TESTATE ESTATE

In the Supreme Court of Western Australia — Probate Jurisdiction.

In the matter of the Will of .....

.....

.....

.....

.....

WHEREAS the abovenamed ..... deceased died at .....  
on the ..... day of ..... 20..... leaving estate within  
the State of Western Australia the gross value of which as estimated by the  
Public Trustee does not exceed the prescribed amount within the meaning given  
in section 14(6) of the *Public Trustee Act 1941* and no person has taken out  
probate or administration of the said estate in Western Australia.

AND WHEREAS the said deceased made .....last Will and  
Testament bearing date the ..... day of ..... 20.....; a  
certified copy of the Will is hereunto annexed and signed by the Public Trustee.

AND WHEREAS the Public Trustee is entitled to a Grant of Probate of the Will  
of the said deceased.

NOW this is to notify all whom it may concern that in pursuance of  
section 14(1) of the *Public Trustee Act 1941* the Public Trustee hereby elects to  
administer with the Will the estate of the said deceased.

SO far as now known to the Public Trustee the name address and occupation of  
the said deceased at the date of death are set out above and the total value of the  
said estate is ..... of which ..... is real estate and  
..... is personal estate.

DATED this ..... day of ..... 20.....

Public Trustee.

*[Form No. 3A inserted: Gazette 18 Aug 1978 p. 3063; amended:  
Gazette 24 Jun 2008 p. 2889.]*

**Form No. 3B**

**ELECTION BY THE PUBLIC TRUSTEE TO  
ADMINISTER A TESTATE ESTATE**

In the Supreme Court of Western Australia — Probate Jurisdiction.

In the matter of the Will and Estate of .....  
.....  
.....  
.....

WHEREAS the abovenamed ..... deceased died at ..... on the ..... day of ..... 20..... leaving estate within the State of Western Australia the gross value of which as estimated by the Public Trustee does not now exceed the prescribed amount within the meaning given in section 14(6) of the *Public Trustee Act 1941* and no person has taken out probate or administration of the said estate in Western Australia.

AND WHEREAS the said deceased made ..... last Will and Testament bearing date the ..... day of ..... 20.....; a certified copy of the Will is hereunto annexed and signed by the Public Trustee.

AND WHEREAS the Public Trustee is entitled to an Order to Administer with the Will the estate of the said deceased.

NOW this is to notify all whom it may concern that in pursuance of section 14(1) of the *Public Trustee Act 1941* the Public Trustee hereby elects to administer with the Will the estate of the said deceased.

SO far as now known to the Public Trustee the name address and occupation of the said deceased at the date of death are set out above and the total value of the said estate is ..... of which ..... is real estate and ..... is personal estate.

DATED this ..... day of ..... 20.....

Public Trustee.

*[Form No. 3B inserted: Gazette 18 Aug 1978 p. 3063; amended:  
Gazette 24 Jun 2008 p. 2889.]*

**Form No. 4**

MEMORANDUM REVOKING AN ELECTION  
BY THE PUBLIC TRUSTEE

In the Supreme Court of Western Australia — Probate Jurisdiction.

In the matter of the Estate of

.....  
.....  
....., deceased.

WITH reference to the election by the Public Trustee, filed in this Honourable Court in this matter on the ..... day of ..... 20....., the Public Trustee now finds that the gross value of the property to be administered exceeds the prescribed amount within the meaning given in section 14(6) of the *Public Trustee Act 1941* (or that the deceased died possessed of property outside the State) and the said election is hereby revoked.

DATED the ..... day of ..... 20.....

Public Trustee.

*[Form No. 4 inserted: Gazette 18 Aug 1978 p. 3064; amended:  
Gazette 24 Jun 2008 p. 2889.]*

**Form No. 5**

(Section 59)

**CERTIFICATE OF APPOINTMENT (OR AUTHORITY) OF  
THE PUBLIC TRUSTEE**

In the matter of .....  
.....  
.....  
.....

THE Public Trustee hereby certifies that his appointment (or authority, as the case may be) in relation to the abovementioned in course of administration is (here set out the nature of the appointment or authority and the facts on the happening of which such authority was made or granted).

Dated the ..... day of ..... 20.....

Public Trustee.

[SEAL.]

*[Form No. 6 deleted: Gazette 18 Aug 1978 p. 3064.]*

**Form No. 7**

(Section 44(6))

CERTIFICATE OF AMOUNT OF ADVANCE FROM  
COMMON ACCOUNT

THE Public Trustee hereby certifies that the amount owing by .....

.....  
.....  
.....  
for advances out of the Public Trustee Common Account and interest thereon at  
the ..... day of ..... 20..... is .....  
dollars ..... cents.

Dated the ..... day of ..... 20.....

Public Trustee.

[SEAL.]

*[Form No. 7 amended: Gazette 24 Jun 2008 p. 2889-90.]*

*[Second Schedule deleted: Gazette 24 Jun 2008 p. 2890.]*

### Notes

- <sup>1</sup> This is a compilation of the *Public Trustee Regulations 1942* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Citation	Gazettal	Commencement
Untitled regulations <sup>2</sup>	26 Jun 1942 p. 692-5	26 Jun 1942
Untitled regulations	20 Nov 1942 p. 1182-3	20 Nov 1942
Untitled regulations	9 Jul 1943 p. 665	9 Jul 1943
Untitled regulations	21 Jan 1944 p. 25	21 Jan 1944
Untitled regulations	19 May 1944 p. 388	19 May 1944
Untitled regulations	12 Dec 1947 p. 2255	12 Dec 1947
Untitled regulations	21 May 1948 p. 1097	21 May 1948
Untitled regulations	24 Apr 1952 p. 1055	24 Apr 1952
Untitled regulations	19 Feb 1954 p. 267	19 Feb 1954
Untitled regulations	3 May 1955 p. 781	3 May 1955
<b>Reprint authorised 28 Jun 1956 in <i>Gazette</i> 5 Jul 1956 p. 1659-65</b> (includes amendments listed above)		
Untitled regulations	1 May 1969 p. 1347	1 May 1969
Untitled regulations	30 Jun 1972 p. 2169-70	1 Jul 1972
Untitled regulations	28 Dec 1973 p. 4747	1 Jan 1974 (see r. 2)
Untitled regulations	18 Aug 1978 p. 3062-5	18 Aug 1978
<b>Reprint authorised 10 Jan 1979 in <i>Gazette</i> 17 Jan 1979 p. 103-10</b> (includes amendments listed above)		



Citation	Gazettal	Commencement
Untitled regulations	23 May 1980 p. 1551-2	23 May 1980
<i>Public Trustee Amendment Regulations 1984</i>	28 Sep 1984 p. 3158	1 Oct 1984 (see r. 2)
<i>Public Trustee Amendment Regulations 1986</i>	5 Sep 1986 p. 3271-2	5 Sep 1986 (see r. 2 and <i>Gazette</i> 5 Sep 1986 p. 3265)
<i>Public Trustee Amendment Regulations (No. 2) 1986</i>	31 Oct 1986 p. 4039-40	31 Oct 1986
<i>Public Trustee Amendment Regulations 1989</i>	24 Feb 1989 p. 593	24 Feb 1989
<i>Public Trustee Amendment Regulations (No. 2) 1989</i>	6 Oct 1989 p. 3726-7	6 Oct 1989
<i>Public Trustee Amendment Regulations 1991</i>	6 Sep 1991 p. 4714-15	6 Sep 1991
<i>Public Trustee Amendment Regulations 1992</i>	17 Mar 1992 p. 1226-7	17 Mar 1992
<i>Public Trustee Amendment Regulations 1993</i>	20 Jul 1993 p. 3962-4	20 Jul 1993
<i>Public Trustee Amendment Regulations 1995</i>	21 Apr 1995 p. 1403-5	21 Apr 1995
<i>Public Trustee Amendment Regulations 1997</i>	11 Mar 1997 p. 1480-3	11 Mar 1997
<i>Public Trustee Amendment Regulations 2000</i>	30 Jun 2000 p. 3429-31	1 Jul 2000 (see r. 2)
<b>Reprint of the Public Trustee Regulations 1942 as at 3 Oct 2000</b> (includes amendments listed above)		
<i>Public Trustee (Amendment) Regulations (No. 2) 2000</i> <sup>3</sup>	29 Dec 2000 p. 7927-8	1 Jan 2001 (see r. 2 and <i>Gazette</i> 29 Dec 2000 p. 7903)
<i>Public Trustee Amendment Regulations (No. 3) 2000</i>	29 Dec 2000 p. 7928-9	1 Jan 2001 (see r. 2)
<i>Public Trustee Amendment Regulations 2001</i>	12 Oct 2001 p. 5563	12 Oct 2001
<i>Public Trustee Amendment Regulations 2002</i>	17 Jan 2003 p. 115	17 Jan 2003
<i>Public Trustee Amendment Regulations 2004</i>	8 Jun 2004 p. 1977-8	8 Jun 2004
<i>Courts and Legal Practice (Consequential Amendments) Regulations 2005</i> r. 10	19 Apr 2005 p. 1294-302	19 Apr 2005

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Citation	Gazettal	Commencement
<b>Reprint 4: The Public Trustee Regulations 1942 as at 17 Mar 2006</b> (includes amendments listed above)		
<i>Public Trustee Amendment Regulations 2008</i>	24 Jun 2008 p. 2888-90	r. 1 and 2: 24 Jun 2008 (see r. 2(a)) Regulations other than r. 1 and 2: 1 Jul 2008 (see r. 2(b) and <i>Gazette</i> 24 Jun 2008 p. 2885)

<sup>2</sup> Now known as the *Public Trustee Regulations 1942*; citation changed (see note under r. 1).

<sup>3</sup> The *Public Trustee (Amendment) Regulations (No. 2) 2000* r. 5 reads as follows:

“

**5. Fees payable — savings**

Despite the amendment effected by regulation 4, the *Public Trustee Regulations 1942* as in force before the commencement of these regulations continue to apply after that commencement in relation to —

- (a) property that was in the Public Trustee’s control under the *Crimes (Confiscation of Profits) Act 1988* immediately before the commencement of these regulations; and
- (b) property of which the Public Trustee has care or control under the *Crimes (Confiscation of Profits) Act 1988* as a result of the operation of the *Criminal Property Confiscation (Consequential Provisions) Act 2000*.

”.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
estate .....	1(2)